

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4681 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BABULAL G VIDJA

Versus

COLLECTOR, BANASKANTHA & ANR.

Appearance:

MR HL PATEL for the Petitioner

MR HL JANI for the Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 04/09/96

ORAL JUDGEMENT

1. Heard learned counsel for the parties. The petitioner filed this writ petition before this court praying therein for quashing of the orders of the respondents, annexure 'A' and 'B'.

2. The petitioner is a schedule caste. He made an application to the Dist. Collector, Banaskantha at Palanpur for allotment to him the land for starting a

Bone Mill. Under the order dated 4-2-1978, the Collector, Banaskantha allotted the land admeasuring 10117 sq. meters of Survey No.251 in Palanpur town for the said purpose. The petitioner was directed to deposit Rs.70820-30 within a period of 30 days of the said allotment. The petitioner has filed an appeal against the aforesaid order to the State Government. The State Government under its order dated 23rd May, 1979 informed the petitioner that the price of the land was fixed by the Dy. Town Planning Officer and the price of the land was ordered to be paid in the instalments. The first instalment of Rs.14164-25 was directed to be paid on 7-2-1980. Still the petitioner was not satisfied and he made a representation to the State Government that the amount of instalment is heavy and as such it may be reduced. The State Government under the letter dated 27-11-1980 directed the petitioner to deposit an amount of Rs.14164-25 within a period of 15 days. This order was against taken up by the petitioner in the appeal, and the appellate authority under its order dated 27-8-1981 directed the Collector to take the decision on merits to grant suitable instalments to the petitioner. The petitioner represented to the Collector that he would be able to pay Rs.2000/- by way of instalment and has also deposited Rs.2000/- on 13-5-1982. The Collector under its order dated 22-6-1983 rejected the petitioner's request to give him suitable instalment for making the payment of the price of the land. The matter has been taken up by the petitioner to the Government by an appeal and it has been dismissed on 5-10-1983 on the ground that the Collector had no authority to take the decision against the order of the State Government already made and therefore, the order of the Collector is without jurisdiction. The petitioner has challenged these two orders before this Court. The prayer has been made that the respondent may be directed to take the amount of the price of the land on quarterly instalments of Rs.5000/-.

3. I do not find any substance in this Special Civil Application. From the facts which have come on the record, it is clear that the petitioner was not interested in taking of the land. The learned counsel for the petitioner is unable to point out any provision from the Bombay Land Revenue Code whereunder the price of the land allotted could have been paid by him in instalments. It is a case where the State Government has taken a very lenient view and in the appeal the petitioner was directed to make the payment in instalments, but he was not satisfied and even that instalment was not paid. The land was allotted to the petitioner in the year 1978 and he instead of making the

payment of the amount, dragged the matter in litigation for all these years. The instalment was fixed by the Government, but still he insisted for fixation of the instalment at Rs.2000/-. The petitioner being a schedule caste has been given an indulgence by the appellate authority more than what it could have been given, but the petitioner instead of availing of that indulgence and making the payment of the amount, he has all the time made a request for reducing the amount of instalment. From the facts which have come on record, the petitioner was not a person who bonafidely required the land. No illegality whatsoever has been committed by the respondents in making of the orders impugned in this writ petition.

4. In the result, this Special Civil Application fails and the same is dismissed.

zgs/-